

CITY COUNCIL REPORT



MEETING DATE: June 28, 2005

ITEM NO. 11

GOAL: Coordinate Planning to Balance Infrastructure

SUBJECT

Findlay Property - 1-HE-2005

REQUEST

Request to approve an ESLO Hardship Exemption to allow a Preliminary Plat, which was submitted and reviewed by the City a year before ESLO 3 was approved. The exemption is to allow side yard walls to occur on the property lines as it was originally designed in a plan supported by the neighborhood associations. There will be no perimeter walls as all sides to the project have NAOS setbacks including a Scenic Corridor on Shea Blvd.

OWNER

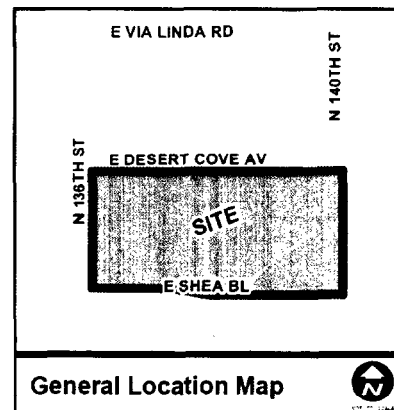
Findlay Trust

APPLICANT CONTACT

Steven Voss
Lva Urban Design Studio LLC
480-994-0994

LOCATION

Northeast corner of Shea Blvd and 136th Street



BACKGROUND

Zoning:

The site is zoned R1-43 ESL (Single Family Residential Environmentally Sensitive Lands). The ESL Ordinance requires that a percentage of the property be permanently preserved as Natural Area Open Space (NAOS) and that specific environmental features be protected.

Context:

The site is located northeast corner of Shea Boulevard and 136th Street. The surrounding property is zoned R1-10 ESL to the east, northeast, and western property boundary. The vacant land to the south and along the northwestern property boundary is zoned R1-43 ESL and is identified as Preserve Lands. The Mayo Clinic is located to the west is zoned Commercial Office (CO). The site will be accessed from two entrances along Desert Cove Road. Access using Shea Boulevard will be prohibited.

APPLICANT'S PROPOSAL

The Applicant is proposing a waiver for Section 6.1071 Design Guidelines, which requires a 15 ft. side yard setback from the property line to the side yard wall.

The Applicant has provided an extensive narrative discussing the neighborhood involvement, planning process, site plan the

request/justification for the waiver (See Attachment #5).

Included in the narrative, are the wildlife and open space plan (See Attachment #7) and the site plan (See Attachment #9) that is pending consideration by the Development Review Board.

FINDINGS

1. Demonstrated Substantial Hardship that would reduce the ability to use the parcel(s):

The Applicant spoke at the City Council Hearing when ESLO 3 was being considered and requested exemption for this Preliminary Plat. The Council advised the applicant to make application for the waiver during the plat process.

The request then and now is due to the fact that the project had been submitted and reviewed by the City and the neighborhood associations prior to ESLO 3 being considered.

The Applicant maintains that either a loss in meaningful open space or a loss in density will occur if the lots need to be revised to accommodate an additional 30ft. in width in order to accommodate the side yard wall setbacks.

2. The requested exemption is consistent with the intent and purpose of the ESL Ordinance:

The request meets the intent and purpose of the ESL Ordinance through:

- a. Protect and Preserve significant natural features: The project is preserving a significant wash in its natural condition and providing a public trail easement through it. The plan maintains wash corridors to allow for wildlife and drainage flows.
- b. Protect nonrenewable resources: The project is preserving 32 Acres of NAOS (40%), which is a 17% increase over the required amount.
- c. Conserve the character of the natural Desert Landscape: The plan provides "meaningful" on-lot open space protecting sensitive environmental features.
- d. Recognizing recreational assets: The project provides regional trails and neighborhood sidewalks to connect to the adjacent neighborhoods.
- e. Minimizing impact: The project is controlling the location and intensity of the lots by shifting smaller lots to the less sensitive areas and keeping the larger lots in the more sensitive areas. The Applicant agreed to make changes to the plan to accomplish this purpose at the request of staff and the neighboring homeowner association early in the process.
- f. Retain the visual character of the natural landscape: The project provides significant areas of meaningful natural open space.
- g. Maintain significant open spaces which provide view corridors: The project will maintain significant setbacks around the

perimeter with a Scenic Corridor on Shea and wide corridors of open space associated with the natural washes.

3. The application of the new ESLO standards does not achieve significant benefit for protection of the environment and community:

Adding the requirement for side yard walls would require the applicant to widen each lot in order for the product to stay the same. This would be at the expense of meaningful open space outside of the development areas. Considering that the existing homes around this project have already been developed with this style of development, it is considered to be consistent and appropriate.

4. The requested exemption is in conformance with a previously adopted version of the ESL Ordinance:

The proposed Preliminary Plat is consistent with the revised version of the ESL Ordinance.

**STAFF
RECOMMENDATION**

Recommended Approach:
Staff recommends approval.

Proposed Next Steps:
Approval of this request will enable the application to proceed to the Development Review Board for consideration of the Preliminary Plat.

**RESPONSIBLE DEPT
(S)**

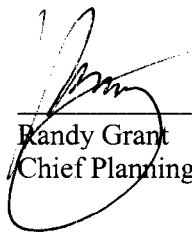
Planning and Development Services Department
Current Planning Services

STAFF CONTACT

Greg Williams
Senior Planner
480-312-4205
E-mail:
gwilliams@ScottsdaleAZ.gov

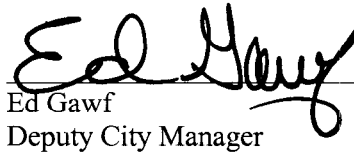
Randy Grant
Chief Planning Officer
480-312-7995
E-mail: rgrant@ScottsdaleAZ.gov

APPROVED BY



Randy Grant
Chief Planning Officer

6/6/05
Date



Ed Gawf
Deputy City Manager

6/6/05
Date

ATTACHMENTS

1. Project Narrative
2. Justification for Exemption
3. Context Aerial
- 3A. Aerial Close-up
4. Zoning Map
5. Citizen Involvement
6. City Notification Map
7. Open Space/Wildlife Plan
8. Photographs
9. Proposed Site Plan

**Findlay 80 Acres
ESLO Hardship Exemption
Narrative
Revised: 3-11-05**

Introduction

The Findlay 80 Acres is located at the northeast corner of Shea Blvd. and 136th Street. The project is under consideration by the City of Scottsdale for Preliminary Plat approval originally submitted in December of 2002.

Neighborhood Involvement

The process included an extensive neighborhood involvement program in order to create a compatible project. The following is a summary of the efforts made to obtain neighborhood support:

- Nov. 2003: Letter of invitation sent to home/property owners within 750' of the site.
- Nov. 2003: NESPOA Subcommittee Meeting.
- Dec. 2003: NESPOA Meeting.
- Dec. 2003: Paloma Paseo HOA Meeting.
- Dec. 2003: Paloma Paseo HOA Meeting.
- Jan. 2004: Changes to the Plan and commitments offered to Paloma Paseo in order to gain their support.
- Feb. 2004: Meeting with the Mayo Clinic.
- May 2004: NESPOA Meeting with Dennis Rodriquez. Re: ESLO 3 Waiver.
- Oct. 2004: Paloma Paseo Support Agreement Received.
- Nov. 2004: NESPOA Support Letter Received.

Land Planning

The initial plan that was submitted to the City for the preapplication was to rezone for single-story office and higher density single family which was consistent with the City's General Plan. Some of the neighbors gave input to the City that the proposal was unacceptable.

The land owners decided to propose development under the existing zoning, rather than proceed with a re-zoning.

A plan for 66 lots on 80 acres was developed and presented to NESPOA and the neighbors. The plan was submitted to the City for a Preliminary Plat Review.

The review by the City was not completed for several months. Our Project Coordination Manager was then reassigned to another department.

With new staff being assigned to the project, the review process started again. Additional submittals were required in this process.

City Staff's comments on the plan were primarily focused on shifting a few units away from the east neighborhood to the west and closer to 136th Street. This required that the lots to the west become more narrow, and was allowed by ESLO2.

Through a series of meetings with both the neighbors and NESPOA, agreements were made to modify the site plan to shift units to the west closer to 136th Street, to increase the open space setbacks along the north and east boundaries and to limit some of the homes along the north and east boundaries to 22 ft. in height. A detailed listing of the neighborhood issues discussed is attached.

During the lengthy process of working with the neighborhood, the City was actively proposing modifications to ESLO. We provided written and hearing input against several of the proposed changes including the one being requested in this exemption.

Specifically, the requirement to have a 15 ft. wall setback on the side of a lot, creates a substantial hardship for the project. In order to keep the product (home) width, each lot would need to be 30 ft. wider. This translates into a 25% loss in density. The lots can not be made wider due to the number of washes being preserved as open space (37.5%) and the amount of open space being provided as meaningful, continuous areas.

This issue was specifically addressed by Randy Grant at the Planning Commission hearing presentation on ESLO3. He stated:

PLANNING COMMISSION: ESLO3
March 29, 2004

Randy Grant

It is not intended to create an additional layer by which we would get additional O-S. The second issue is that it is not intended to limit the density that is approved by the underlying zoning on a site. If there's a site that has one acre zoning, then they can achieve one acre zoning. This will hopefully, it's intended to help identify which portions of the site are most sensitive, but it is not intended to preserve more of the site than we can through the underlining zoning. And it helps that this is a critical factor as we go through tackling the impact that people believe that this may have on their property. I would like you to keep in mind that this is not something that takes on a regulatory authority of it's own.

Site Plan

The site plan that has been reworked over an extended period of time is attached. It includes combined and individual envelopes responding to the environment and neighborhood/City input.

The washes running through the site are being preserved and 30 of the 80 acres is planned as open space, natural or re-vegetated. While 27.3 acres is required as open space, 30.1 acres are being provided, a 10 percent increase.

Wildlife corridors are maintained throughout the project in approximately 30 acres of open space as depicted on the attached plan. The corridors will successfully connect neighborhoods and projects with the City's preserve land to the southeast.

Drainage is provided in various locations throughout the plan to allow flows to reach the wash areas.

The site has existing development that is contiguous to the north and east. The existing development is has eliminated most if not all of the sheet flows coming on to the site and concentrated the drainage into the existing washes. The resulting flows continue on under Shea Boulevard through the existing large box culverts south of the site.

Request and Justification

We respectfully request that the project be exempted from the 15 ft. side yard setback.

Basis:

1. **Substantial hardship: Reduction in density** of 25% in some areas as a result of shifting units and modifying the plan at the requests of City Staff and the Neighborhood.
2. **Consistency:** The requested plan is consistent with the intent and purpose of the ESL Ordinance.
3. **No significant Benefit:** The application of this requirement will not achieve a significant benefit for protection of the environment and community.

A significant amount of open space is being provide throughout the plan providing massive **wildlife corridors** and washes maintained for **drainage**.

4. **Conformance:** The requested exemption is in conformance with the previously adopted versions of ESL.

As well, the project was planned, presented, submitted, reviewed and agreed to by supporting neighborhood associations much of which occurred before ESLO2 was changed.

This project was presented as one of the projects in progress during the time that the new ESLO3 was being considered. The issue of the side yard wall setbacks was specifically addressed to the Council during the public hearing. Their responses, along with a committee member's response, were as follows:

CITY COUNCIL: ESLO – 3
April 20, 2004

Howard Meyers

"Unfortunately there was a lot of misinformation passed around at some point in time, and I wanted to clear some of that up. It's very important to understand that none of the new or old restrictions changes the amount of NAOS that's required. It simply relocates it or asks you to look at prioritized areas that will help manage the goals of the ordinance."

"There are hardships and there is a relief process in there now for that, and so that the things Mr. Voss addressed that's how you do it. If you're going to cluster things together like the development he showed, you go for amended standards and then you will be allowed to put walls across a certain number of homes, but then you have to leave a lot open in place of it. And that's the process we go through now so I don't see any change in that."

Councilman O'Hern

"I would like to specifically address Mr. Voss' well taken points. You can apply for this exemption. This relatively easy understandable process at the time you submit a plat. Is that correct Mr. Grant? And so if somebody is in the process and is 5 months along as Ms. Lagarde said and they come forward and they want to get their plat approved, they can apply for an exemption at that particular time."

Councilman Ecton

"Anytime rules changes, someone gets impacted. There is no possible way to avoid that."

"We searched for ways to solve many of those issues. But, the only way we could find in most of them is to create a well understood easy, appeal process, where we think they can be dealt with fairly and completely."

Conclusion

The Findlay 80 acres was in process with the City long before the new regulations were approved. The Site plan is the result of extensive effort on behalf of staff, the applicant and the neighborhood associations and it meets or exceeds intent of the ESLO2 goals and regulations.

Without the waiver, there would be a substantial hardship, and it would not bring a significant benefit for the protection of the environment and community.

In fact, it would be a significant detriment to the community because the agreements made with the surrounding Paloma Paseo HOA would be impacted in order to keep the entitled density by shifting lots east contrary to their desires and City Staff's requests.

Thank you for your consideration.

Job: 0079.1

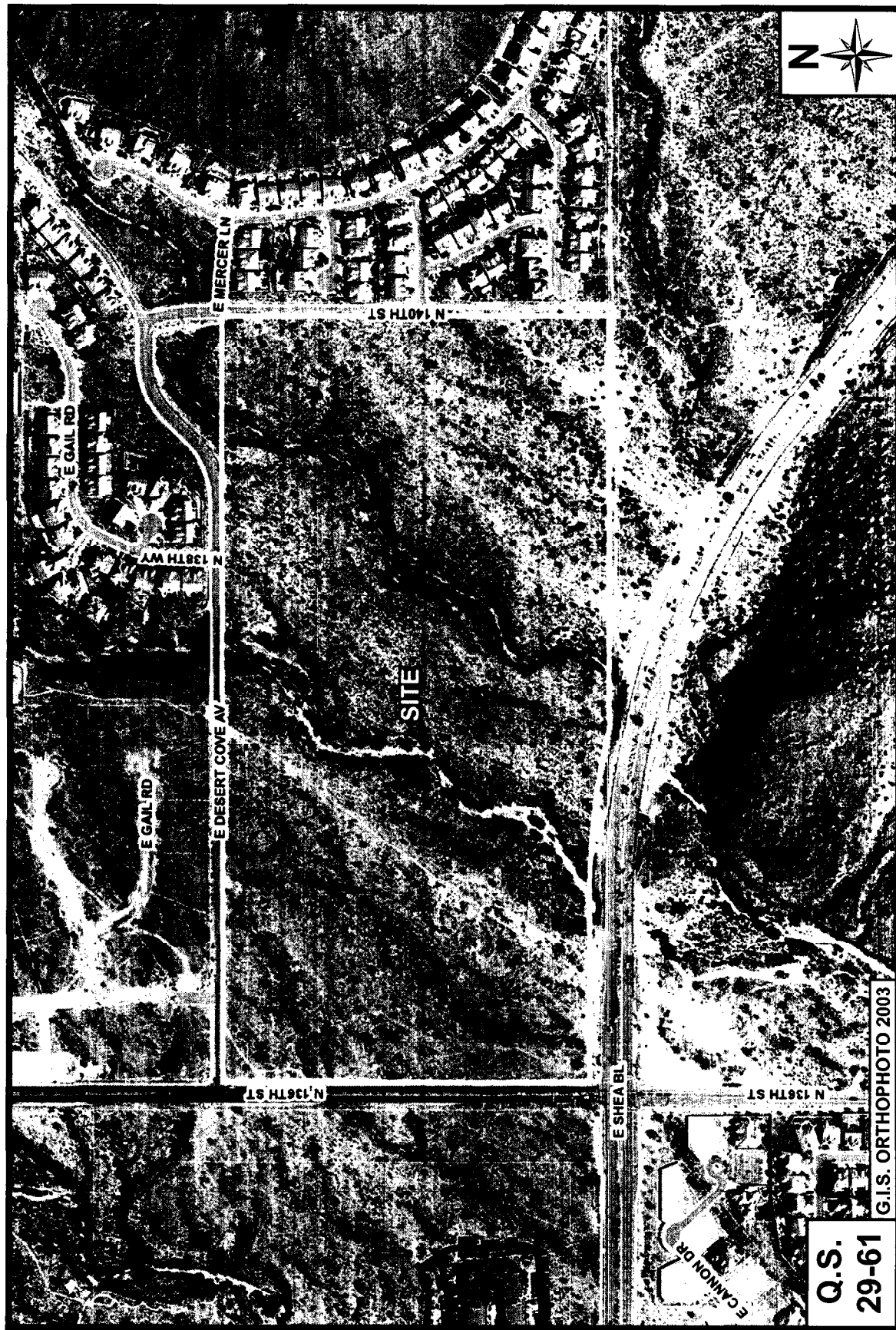
Date: 1-13-05, 3-11-05



1-HE-2005

Findlay Property

ATTACHMENT #3



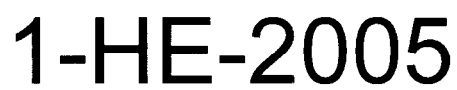
Q.S.
29-61

G.I.S. ORTHOPHOTO 2003

Findlay Property

1-HE-2005

ATTACHMENT #3A



ATTACHMENT #4



Master Planned Communities, Land Planning, Site Planning &
Design, Environmental Analysis & Landscape Architecture

November 19, 2003

Dear Neighbor/Landowner:

We are Landscape Architects and Land Planners working for the Findley Family Trust in the creation of a new community adjacent to or near your home/property.

We are contacting you to give you information about our designs and plans.

This is not a rezoning case, but the City of Scottsdale encourages companies like ours to make contact with adjacent land and home owners.

The project includes 66 homes on 80 acres (0.83 units per acre). Building heights will be limited to 26 ft. We will be preserving approximately 27 acres (33%) of the site as open space.

Access to the site will be from Desert Cove. The entries will include vehicular gates for card access. There will not be any perimeter walls on the edge of the property.

The attached map shows the location of the property and the preliminary plan. The yellow areas on the map are the preliminary development envelopes where the homes and yards may occur. The gray areas are the preliminary street locations. All other areas are proposed open space.

If you have any questions or comments, please mail or fax them to us using the enclosed form.

Thank you for your time and interest!

Sincerely,

LVA Urban Design Studio, LLC

A handwritten signature in black ink, appearing to read "Steven Voss", is written over the printed name and title.

Steven Voss,
Principal

end: Response form
Context Plan

ATTACHMENT #5

7502 East Main Street, Scottsdale, Arizona 85251
Phone (480) 994-0994 Fax (480) 994-7332 www.lvadesign.com



Urban Design
Studio L.L.C.

Master Planned Communities, Land Planning, Site Planning &
Design, Environmental Analysis & Landscape Architecture

Findley 80 Acres

LANDOWNER & NEIGHBOR RESPONSE FORM

NAME: _____

ADDRESS: _____

PHONE NUMBER: _____

EMAIL ADDRESS: _____

LAND OWNER: (No Home) ☐ Yes ☐ No

HOME OWNER ☐ Yes ☐ No

Comments: _____

Thank you!

Please mail or fax to : Steven Voss



SITE PLAN DATA

PROJECT LOCATION: NEC OF SHEA BOULEVARD & 136TH STREET

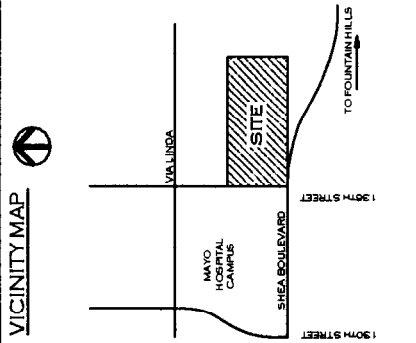
SITE ACREAGE (GROSS) 60.0 AC
 NO. OF RESIDENTIAL UNITS 66
 DENSITY 0.65 DU/AC
 ZONING R-143 ESL

OPEN SPACE 27.32 AC
 PROVIDED NACS 30.11 AC
 SETBACKS (OVER AMENDED DEV. STD):
 MIN. LOT AREA 32,250 SQ. FT.
 FRONT 30 FT
 SIDE 15 FT
 REAR 27 FT
 PROJECT PHASING PHASE 1 OF 1

PROPERTY OWNER BANK OF AMERICA NA TRUST
 4720 BALBOA AVE
 ENCINO, CA 91316

APPLICANT: LVA URBAN DESIGN STUDIO
 7502 E. MAIN STREET
 SCOTTSDALE, AZ 85251

VICINITY MAP



FINDLAY PROPERTY 136TH STREET & SHEA BOULEVARD SCOTTSDALE, AZ SITE PLAN CONTEXT

LVA
 URBAN DESIGN
 STUDIO L.L.C.

136TH STREET & SHEA BOULEVARD
 SCOTTSDALE, AZ 85251
 480.444.4444
 WWW.LVASTUDIO.COM

DATE: 08.16.09
 DRAWN BY: J. FINDLAY
 CHECKED BY: J. FINDLAY
 SCALE: NOT TO SCALE
 PRELIMINARY - NOT FOR CONSTRUCTION
 85251-136TH STREET & SHEA BOULEVARD



Urban Design
Studio L.L.C.

Master Planned Communities, Land Planning, Site Planning &
Design, Environmental Analysis & Landscape Architecture

Meeting Minutes

Project: Findlay 80 Acres
Date: November 12, 2003
Location: Lunch Meeting
Attendees: Dennis Rodriguez and Jerry Graham, North East Scottsdale Home Owner's Assoc.
Steven Voss

Discussion Summary:

1. Steven presented the plan dated 9-19-03 showing 66 lots on 80 acres with two entry gates.
2. Steven discussed that amended standards will be requested including the increase in building height from 24 ft. to 26 ft. Dennis and Gerry agreed that this makes sense since the existing homes to the northeast and east include two story units and the new homes to the north will be 26 ft.
3. Jerry and Dennis both commented that they will support the plan and issue a letter of support once we go through the normal process of presenting to the Board in December.
4. Steven discussed that LVA will be sending out letters to the adjoining neighbors and property owners to invite comment and support.



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Studio L.L.C.

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Meeting Attendance Signup

Project: Findlay 80 Acres (0079.1)
Date: December 8, 2003
Location: Paloma Paseo Home Owner's Association

Name(s)	Address	Phone Number(s)
<u>Keith Wollaver</u>	<u>13929 E. Gail Rd</u>	<u>480 451-3534</u>
<u>Harry + Mary Axford</u>	<u>14010 E. Becker Ln</u>	<u>480-314-7645</u>
<u>Juan Barrow</u>	<u>14043 E. Sahara Dr</u>	<u>480-451-3545</u>
<u>CHARLES LORD</u>	<u>14162 E DESERT COVE</u>	<u>480 391-1689</u>
<u>Jim + Barb Woyak</u>	<u>14019 E. SAHUARO</u>	<u>451-8196</u>
<u>Kaye Hoke</u>	<u>11020 N. 138th Way</u>	<u>480 699 0004</u>
<u>CT + TATE HENRY</u>	<u>14026 E. SAHUARO DR.</u>	<u>480/614-2935</u>
<u>Jim + Colleen Hamel</u>	<u>14023 E. Mercer</u>	<u>480-860-0150</u>
<u>CHUCK + DONNA MCCAIN</u>	<u>10728 N. 140th PL</u>	<u>480-860-5701</u>



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Master Planned Communities, Land Planning, Site Planning &
Design, Environmental Analysis & Landscape Architecture

Meeting Attendance Signup

Project: Findlay 80 Acres (0079.1)
Date: December 8, 2003
Location: Paloma Paseo Home Owner's Association

Name(s)	Address	Phone Number(s)
George Frazier	14045 E. Becker Ln. Scottsdale, AZ 85259	480-314-7646 for gcf@aol.com
Liz & Steve Wilkins	14025 E. Clinton Scottsdale, AZ 85259	480 614 9474 lizsigwecox.net
DAVID ARMSTRONG	10667 N. 140th Way Scottsdale 85255	480 860 8909
Michael Renner	11025 N. 137th Way	480-661-8671
DALE THOMAS + STACEY SHAW	14056 E. Desert Cove Ave Scottsdale, AZ	480.614-8466 daleandstacey@cox.net



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Design, Environmental Analysis & Landscape Architecture

Meeting Minutes

Project: Findlay 80 Acres

Date:

12-11-03

Location:

ST. ANTHONY ON THE DESERT

Attendees:

NESPOA BOARD

MSC RESIDENTS

Discussion:

① I PRESENTED THE PROJECT AND
DISCUSSED THE EFFORTS WITH
THE NEIGHBORS / PALMA FEE.

② SUGGESTIONS MADE

- 130TH ST ENTRY & WASH
BRIDGES INSTEAD OF DESERT
CAVE ACCESS (SU-WH
NOT WORK)

- SIDE WALK NEEDED ON
DESERT CAVE (SU-TO
REQUEST)

- BILLBOARD HT. RESTRICTIONS
ADJACENT TO PALMA.

Signed:

- FINISH 140TH ST (1/2).
(SU TO REQ.)



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Design, Environmental Analysis & Landscape Architecture

January 7, 2004

**Mr. Keith Wollaver, President
Paloma Paseo Home Owner's Association
13929 East Gail Road
Scottsdale, Arizona 85259**

Re: Findlay 80 Acres

Dear Mr. Wollaver:

Thank you for the opportunity to meet with you last month along with several residents from your neighborhood.

I received your letter dated December 11, 2003, the night of our meeting with NESPOA. It was not signed and I was told it was a draft. The letter makes requests well beyond what was discussed at our meeting. In fact, I am very concerned that what I offered to request of the owners, may be lost to a concern for a "give an inch, take a mile" approach.

Instead, I have approached my clients with the requests made at my meeting with you and have been able to recommend most of what your association has requested. The only requests that we will not be able to accommodate are for the home design and color restrictions and the re vegetation of 140th Street areas south of Clinton on your side of the street.

Item number 6 was developed partly based on a comment made by one of your home owners suggesting that if we can help with some of your requests, the future buyer would be encouraged by the agreement for support.

The attached agreement is an offer that certain conditions and restrictions be agreed to by the owners after full support by the Paloma Paseo Home Owner's Association and its residents.

If the terms and conditions of the agreement are acceptable, please sign the attached document and return it to me. I will then send it to the Trust for consideration. Once they send it back to me signed, we will submit it to the City of Scottsdale for their use in stipulation writing.

**Findlay 80 Acres
Agreement**

This agreement is between the Paloma Paseo Home Owner's Association, the Findlay Family Trust and all subsequent owners, the Parties, of the 80 acres located on the northeast corner of Shea Boulevard and 136th Street, Scottsdale, Arizona.

The Parties agree to the following conditions areas they relate to the conceptual site plan dated September 19, 2003 by LVA Urban Design Studio, LLC, the plan:

- 1. The following shall be limited to a building height of 22 feet from natural grade: 16, 41, 44, 61, 62, 63, 64, 65 and 66.**
- 2. The Open Space setback shall be increased from a minimum of 30 feet to 40 feet on the north and east edges of the property.**
- 3. A sidewalk shall be constructed with the street improvements on the South side of Desert Cove between 136th Street and 136th way.**
- 4. 140th Street shall be completed to a local residential street section (no sidewalk) between Mercer Lane and Clinton Street. The improvements shall include a reworking of the dead end configuration of 140th Street to allow for turns only if the City of Scottsdale allows this configuration and construction.**
- 5. The re vegetation of 140th street between Clinton Street and the south property line, west half only if the City of Scottsdale allows the abandonment of same.**
- 6. The Paloma Paseo Home Owner's Association and all properties represented agree to support the Preliminary Plat, Roadway Abandonment application and the Design Review Board application as represented in concept by the plan and the future Final Plat and Construction documents resulting from the City's approval and implemented by the buyer of buyers of the land.**
- 7. The parties acknowledge that the concept plan will have changes in general planning, design and layout when the buyer (not yet determined) proceed with a plan based on their product and needs. However, the items in this agreement will not change without both parties consent.**

This agreement constitutes all agreements, verbal and written and may only be modified jointly by the parties.

Signed:

Mr. Keith Wollaver, President
Paloma Paseo Home Owner's Association
Representing all Association Home Owners/Properties

Ms. Janet Keefer, Findlay Family Trust
Bank of America Trust

Please call me with any questions or comments. I would be happy to have another meeting with you and/or your association to discuss the proposal.

Thank you!

LVA Urban Design Studio, LLC

A handwritten signature in black ink, appearing to read "Steven Voss", is written over the printed name.

**Steven Voss
President**

**C: Mr. Dennis Rodriguez, NESPOA
Mr. Gerry Graham, NESPOA
Mr. John Berry, Beus-Gilbert
Ms. Janet Keefer, Findlay Trust, Bank of America**



Urban Design
Studio L.L.C.

Master Planned Communities, Land Planning, Site Planning &
Design, Environmental Analysis & Landscape Architecture

Meeting Minutes

Project: Findlay 80 Acres

Date:

2/2/04.

Location:

MAYO CLINIC.

Attendees:

RYAN MCGUENEY.

STEVEN VOSS

Discussion:

I PRESENTED THE SITE PLAN. AND
DISCUSSED THE NEIGHBORHOOD
INVOLVEMENT.

PM EXPRESSED THAT HE WOULD
HAVE PREPARED A MORE INTENSE
PLAN WITH OFFICE; BETTER
SUPPORT FOR MAYO USES.

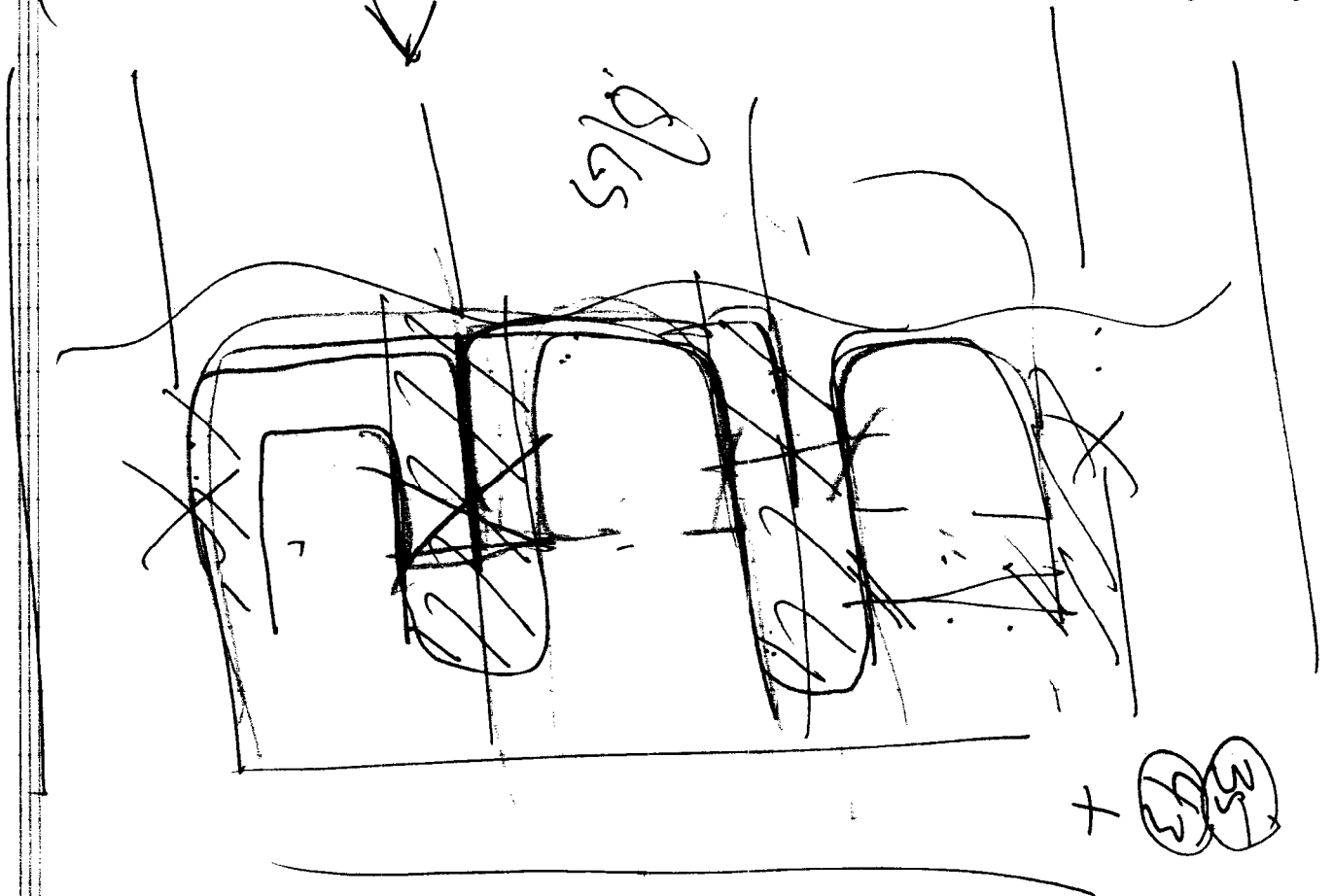
Signed:

Bot A 20
25003 CHANGES

* Dennis Rodriguez (20) 5/14/04.
M.T.

- PL-43 PLAN

25003 REQUIRES 30 GAPS
KUS' PROJET - CUSTOM/S-C.
House



* KEEP PLAN...

**Findlay 80 Acres
Agreement (Rev. 9-9-04)**

This agreement is between the Paloma Paseo Home Owner's Association, the Findlay Family Trust and all subsequent owners, the Parties, of the 80 acres located on the northeast corner of Shea Boulevard and 136th Street, Scottsdale, Arizona.

The Parties agree to the following conditions as they relate to the conceptual site plan dated August, 2004 by LVA Urban Design Studio, LLC, the plan:

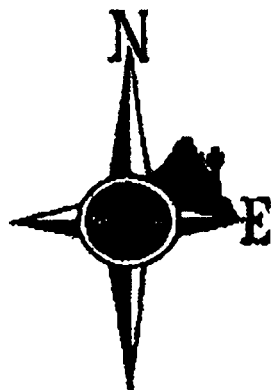
- 1. The following shall be limited to a building height of 22 feet from natural grade: 17, 28, 50, 51, 54, 55, 56, 57 and 58.**
- 2. The Open Space setback shall be increased from a minimum of 30 feet to 40 feet on the north and east edges of the property.**
- 3. A sidewalk shall be constructed with the street improvements on the South side of Desert Cove between 136th Street and 136th Way and on 136th St. between Shea Blvd. and Desert Cove if allowed by the City of Scottsdale behind the curb and in the Right-of-Way.**
- 4. 140th Street shall be completed to a local residential street section (no sidewalk) between Mercer Lane and Clinton Street. The improvements shall include a reworking of the dead end configuration of 140th Street to allow for turns only if the City of Scottsdale allows this configuration and construction.**
- 5. The re vegetation of 140th street between Clinton Street and the south property line, west half only if the City of Scottsdale allows the abandonment of same.**
- 6. The Paloma Paseo Home Owner's Association and all properties represented agree to support the Preliminary Plat, Roadway Abandonment application and the Design Review Board application as represented in concept by the plan and the future Final Plat and Construction documents resulting from the City's approval and implemented by the buyer of buyers of the land.**
- 7. The parties acknowledge that the concept plan will have changes in general planning, design and layout when the buyer (not yet determined) proceed with a plan based on their product and needs. However, the items in this agreement will not change without both parties consent.**
- 8. The owners agree to make the attached CC&R's that are circled a part of their agreement to the buyer(s) as a "draft" CC&R for their future consideration.**

This agreement constitutes all agreements, verbal and written and may only be modified jointly by the parties.

Signed:

***Keith R. Wollaver* Date: 10/26/04
Mr. Keith Wollaver, President
Paloma Paseo Home Owner's Association
Representing all Association Home Owners/Properties**

***Janet Keefer* Date: 11-4-04
Ms. Janet Keefer, Findlay Family Trust
Bank of America, Trustee**

***North East Scottsdale Property Owners Association***

11259 East Via Linda Suite 100 PMB 142 Scottsdale, AZ. 85259

Web site: NESPOA.ORG

November 11, 2004

Mr. Steven Voss
LVA Urban Design Studio L.L.C.
7502 East Main Street
Scottsdale, Arizona 85251

Dear Mr. Voss:

The Board of Directors of the North East Scottsdale Property Owners Association supports the agreement (rev. 9-9-2004) between Paloma Paseo HOA and the Findlay Family Trust proposed development. (Findlay 80 Acres signed agreement.)

The project is located on the 80 acres at the northeast corner of Shea Boulevard and 136th Street, Scottsdale.

This agreement is dated August 2004 and revised August 9, 2004, and lists eight key items between Paloma Paseo and the Findlay Family Trust.

Please ensure the referenced agreement (see attachment) regarding the proposed development is incorporated into the final project stipulations.

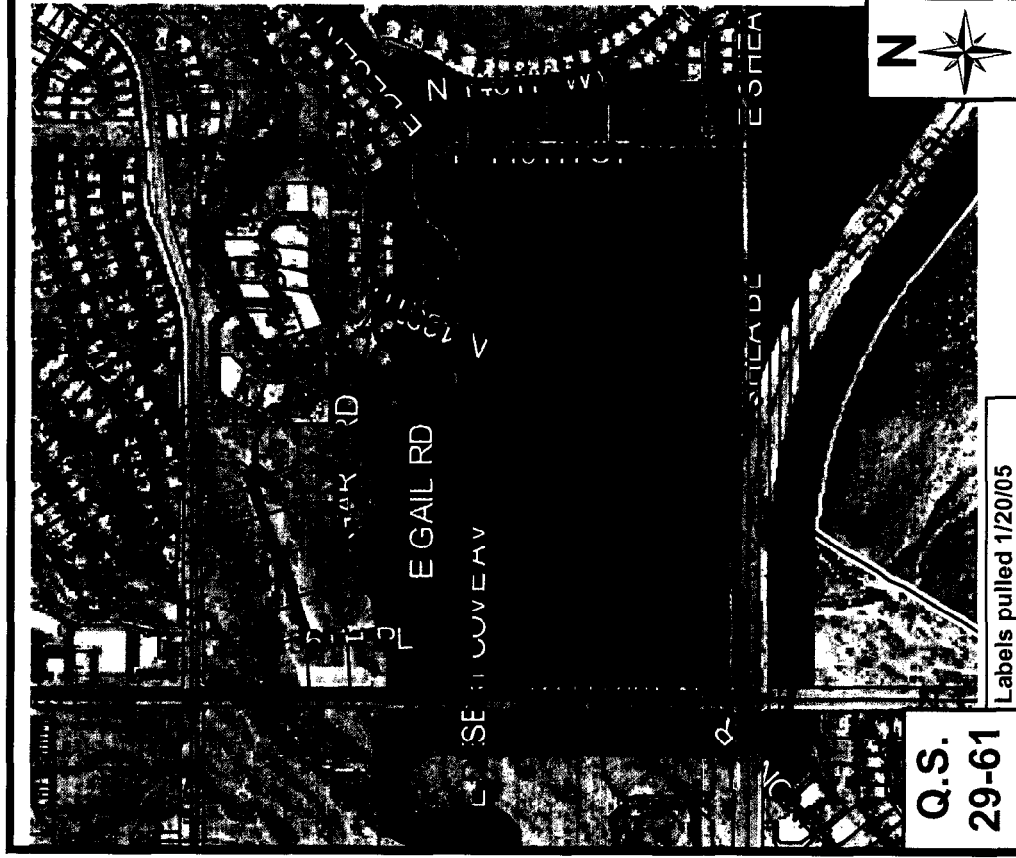
Regards,



Dennis Rodrigues
President, NESPOA

Attachment:

City Notifications – Mailing List Selection Map



Map Legend:



Site Boundary



Properties within 300-feet

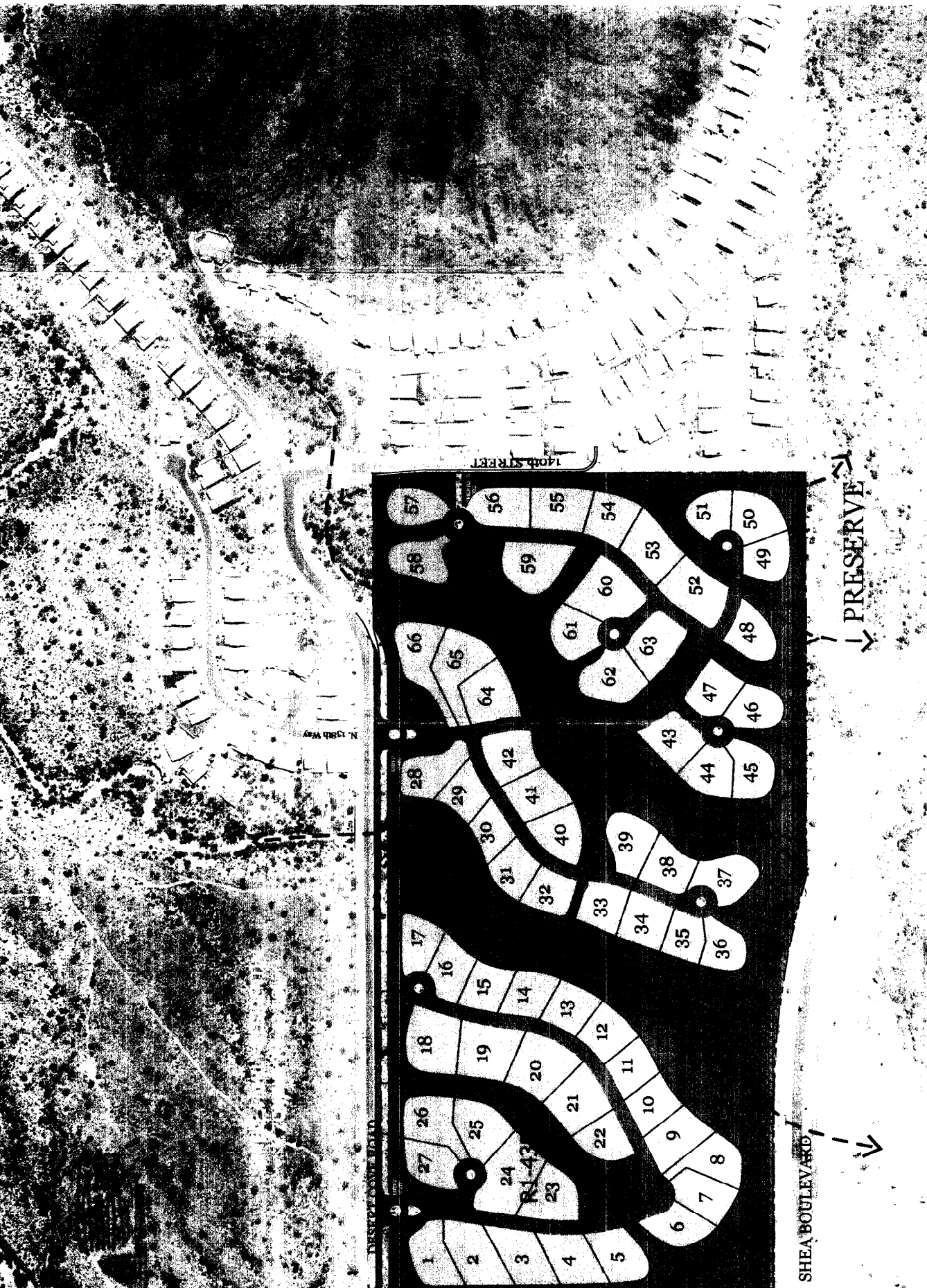
Additional Notifications:

- Interested Parties
- PALOMA PASEO HOMEOWNERS ASSOCIATION

Findlay Property

1-HE-2005

ATTACHMENT #6



SCALE: 1" = 100'

NORTH

DATE: 12-20-11
DRAWN BY: J. Smith
CHECKED BY: J. Smith
APPROVED BY: J. Smith

LEGEND:

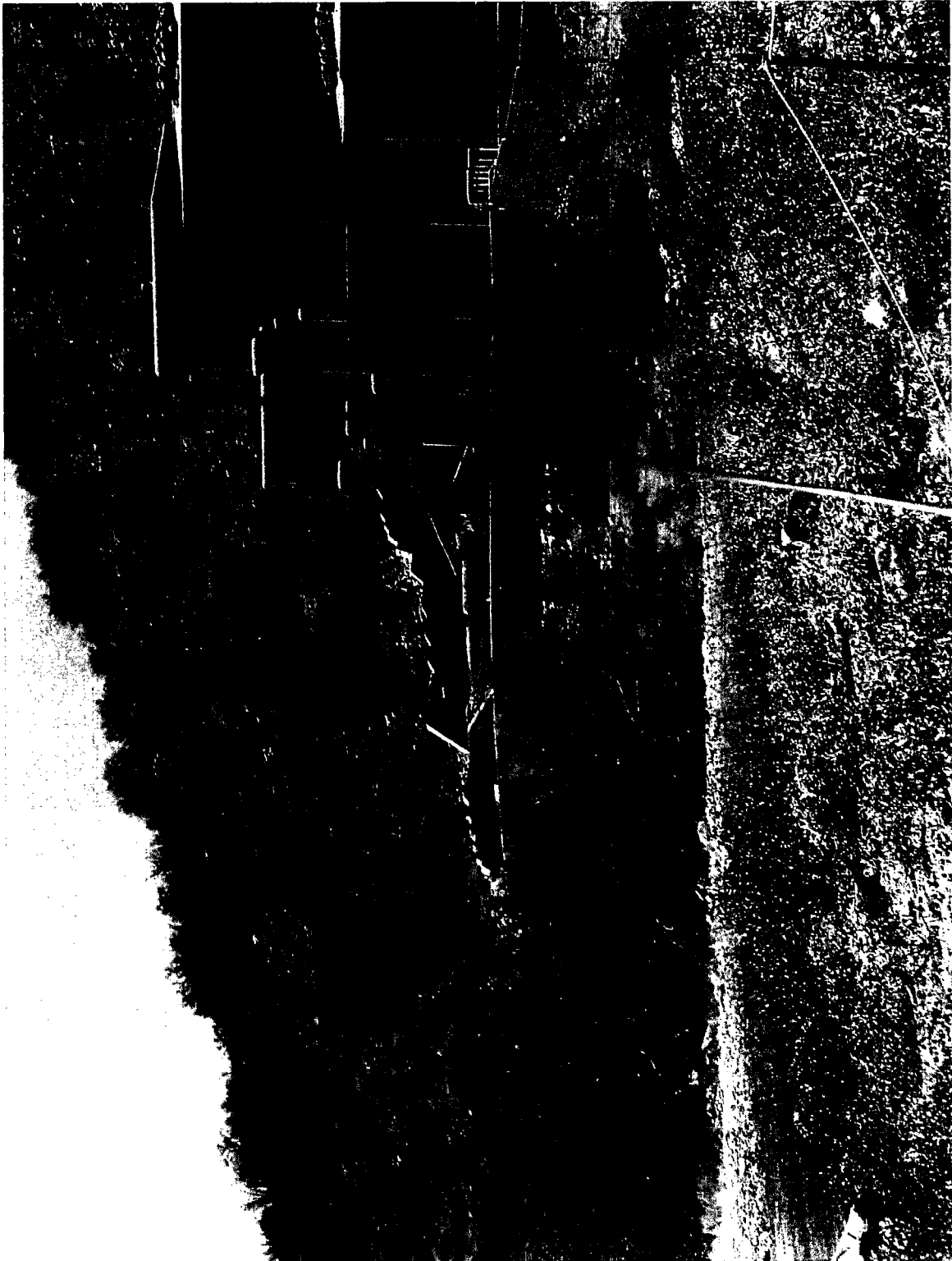
- WILDLIFE CORRIDORS
- OPEN SPACE

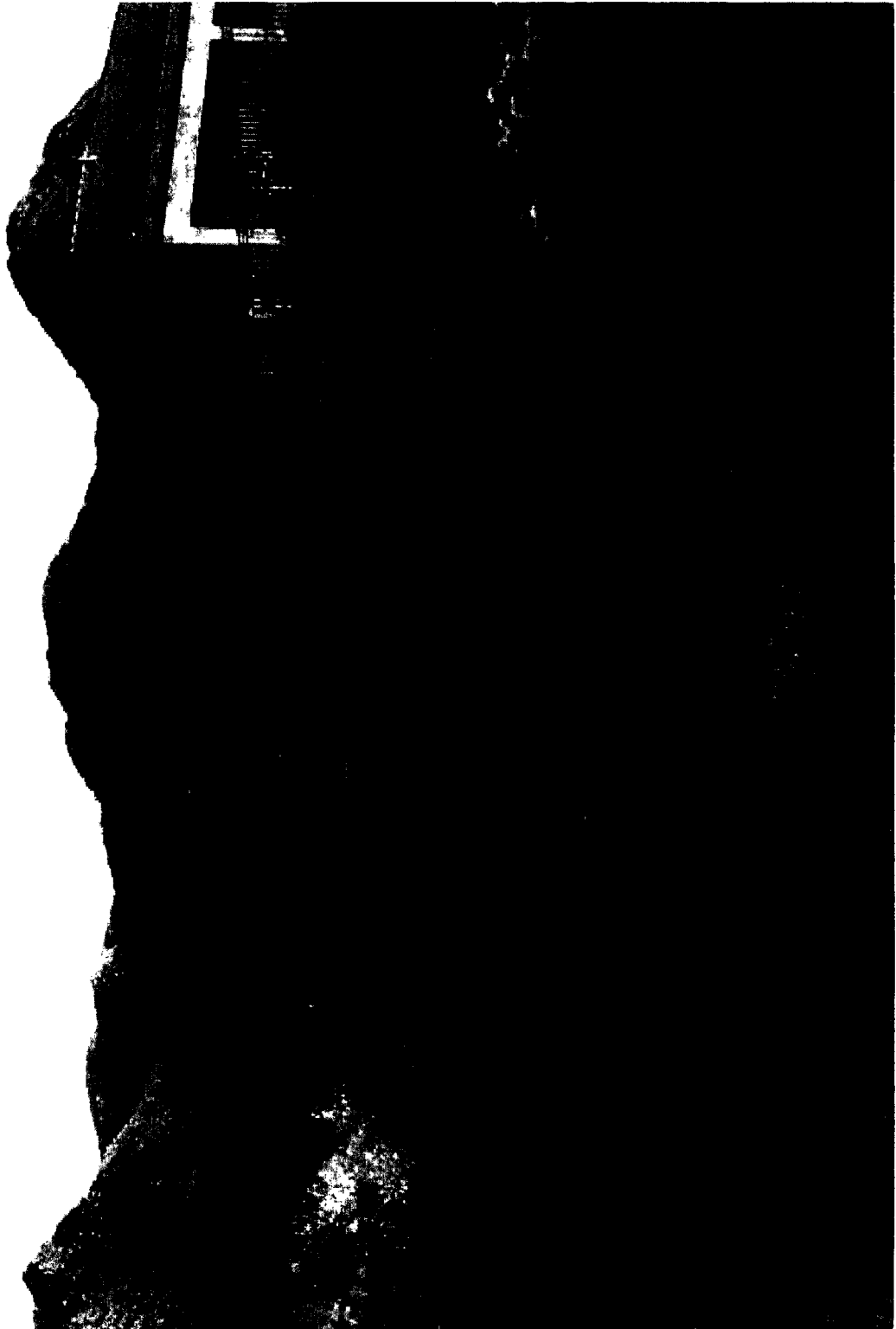
ATTACHMENT

FINDLAY PROPERTY

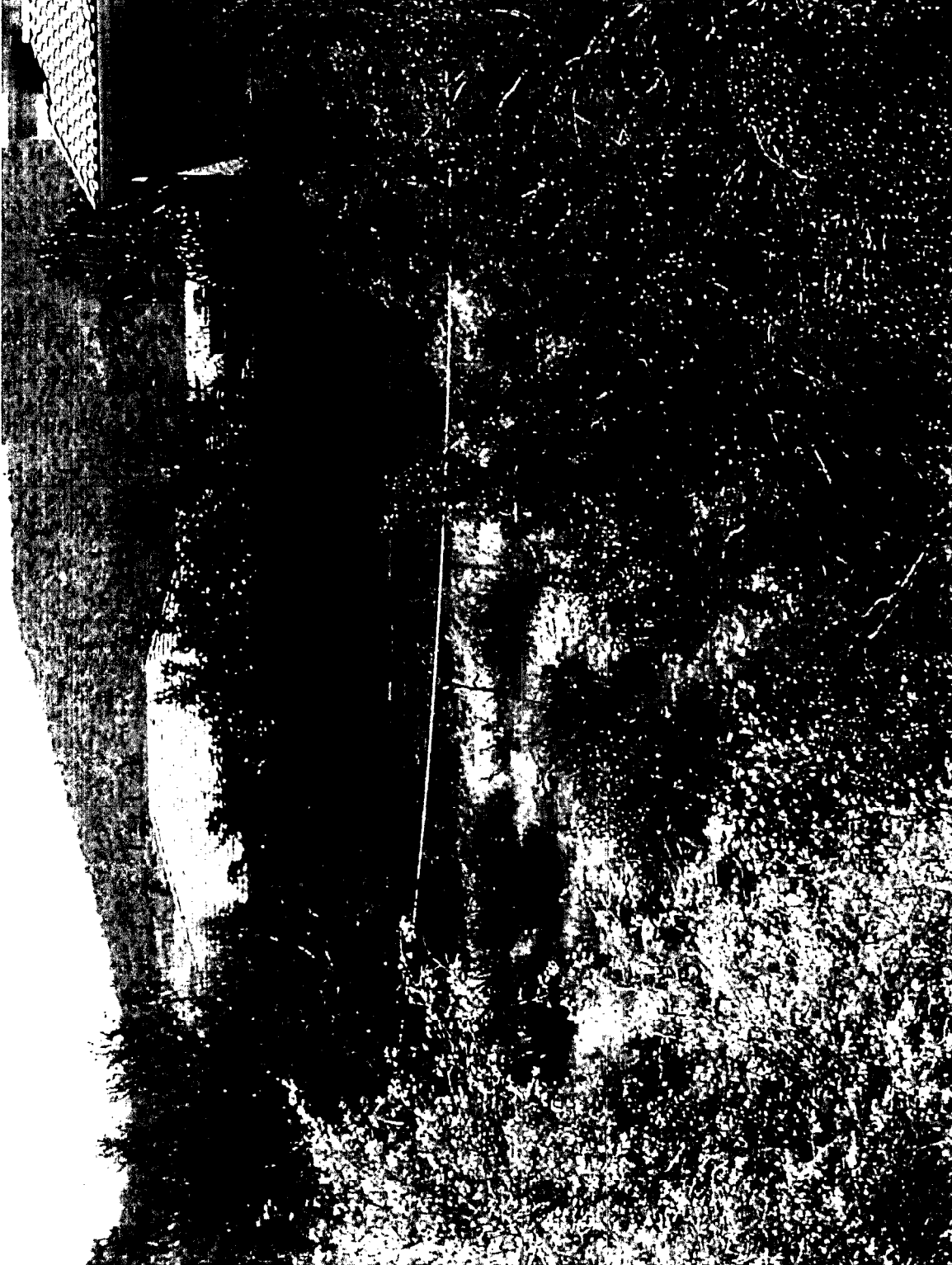
136TH STREET & SHEA BOULEVARD SCOTTSDALE, AZ

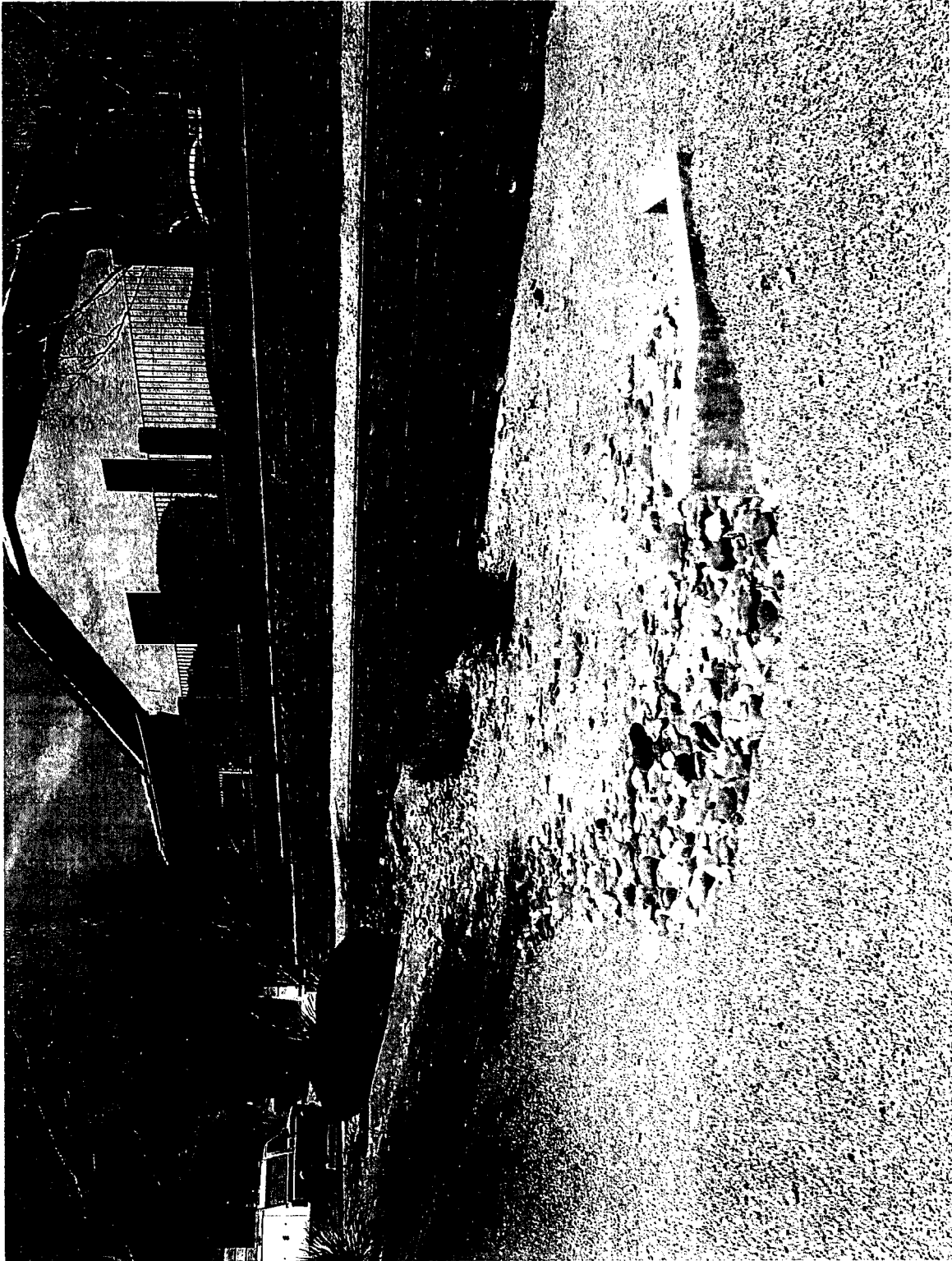


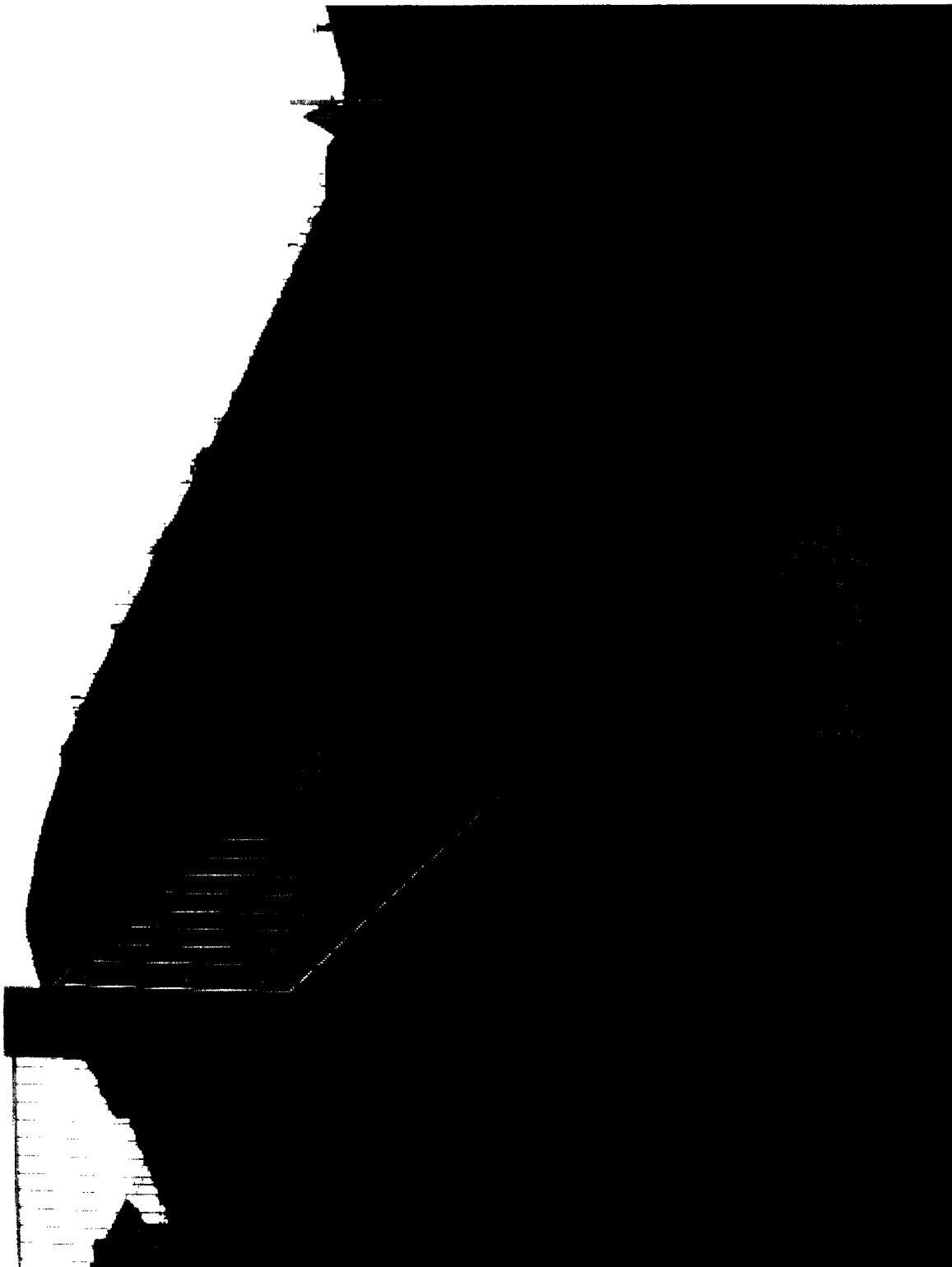


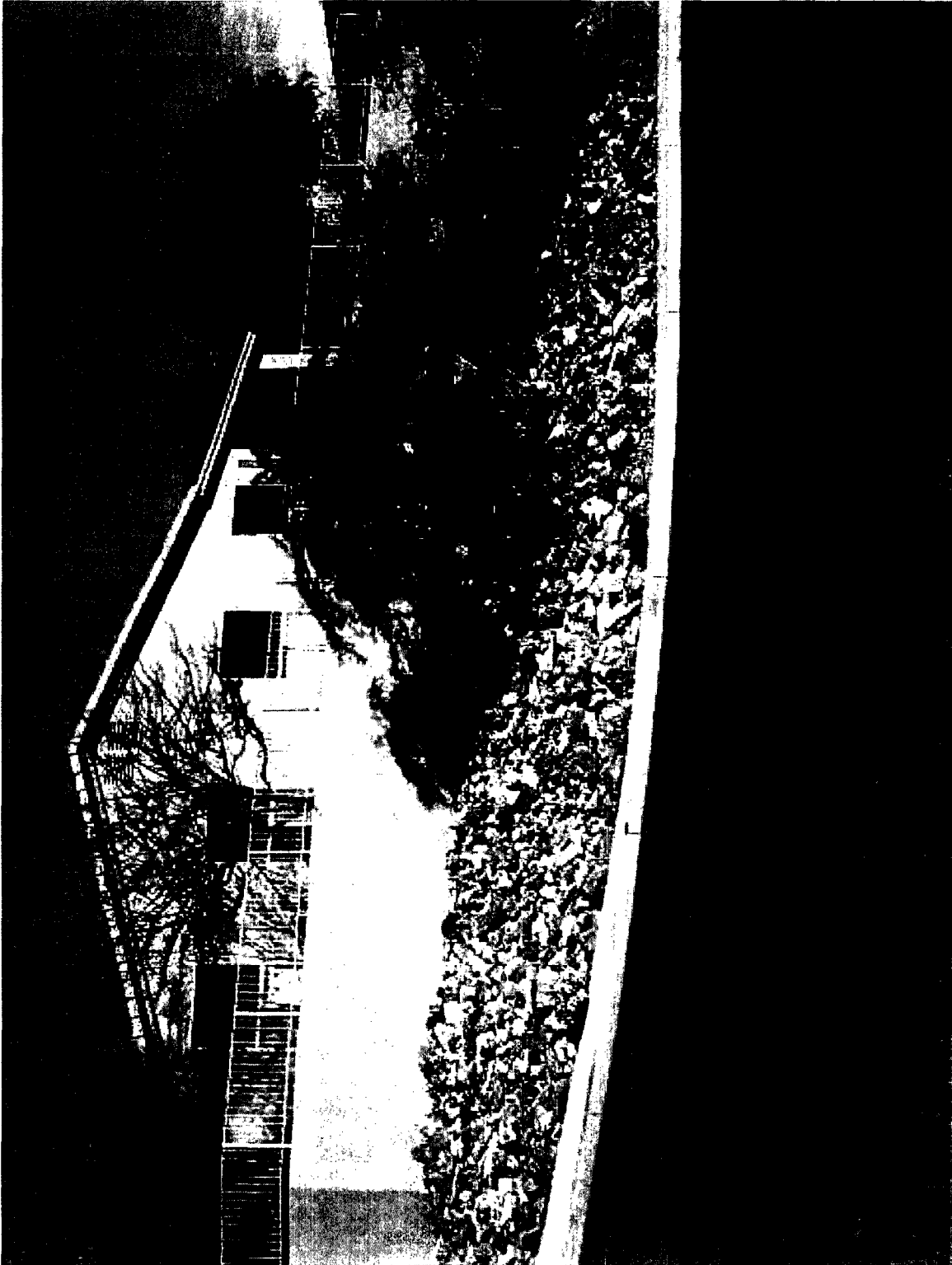


Along back
side of 131st
Street







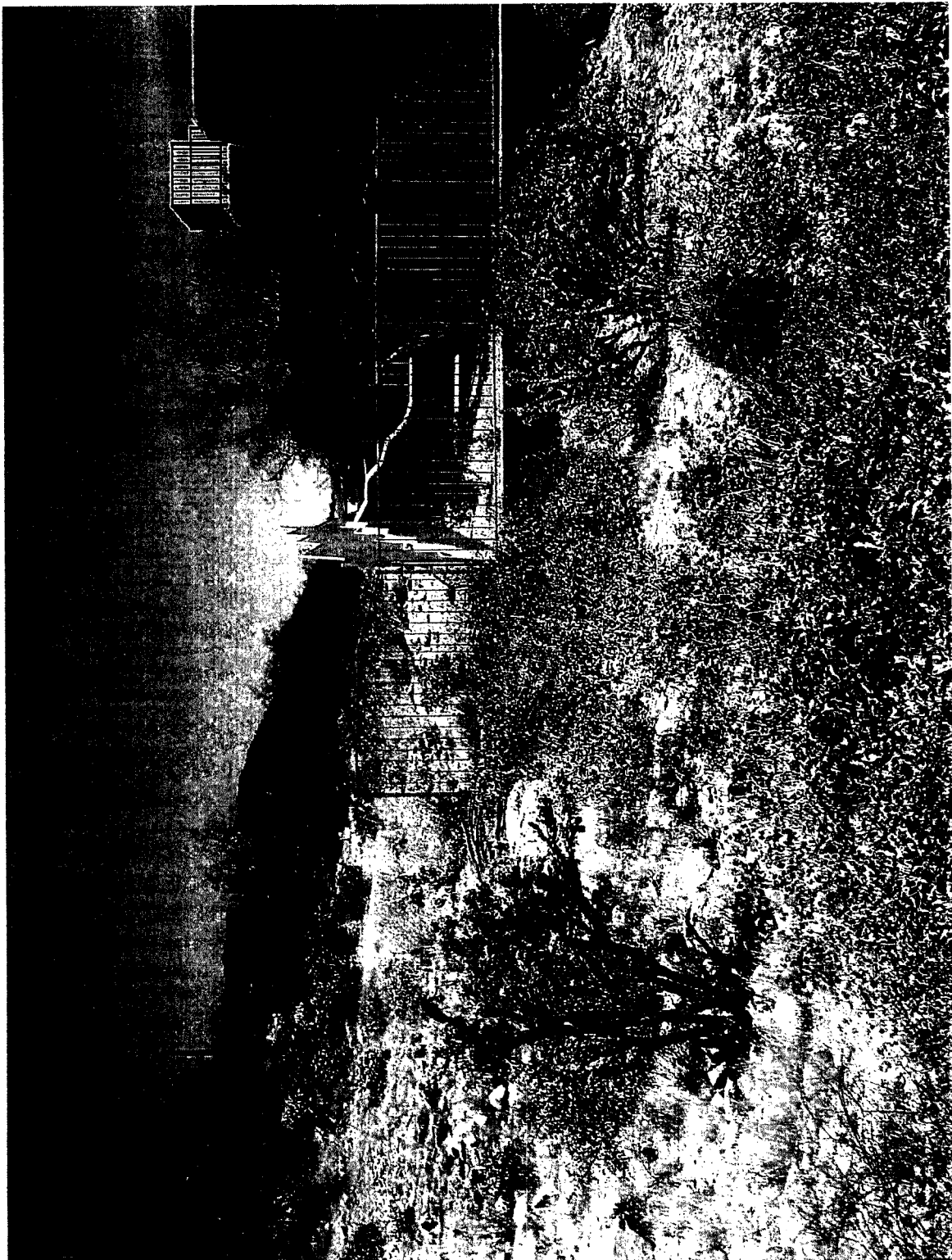


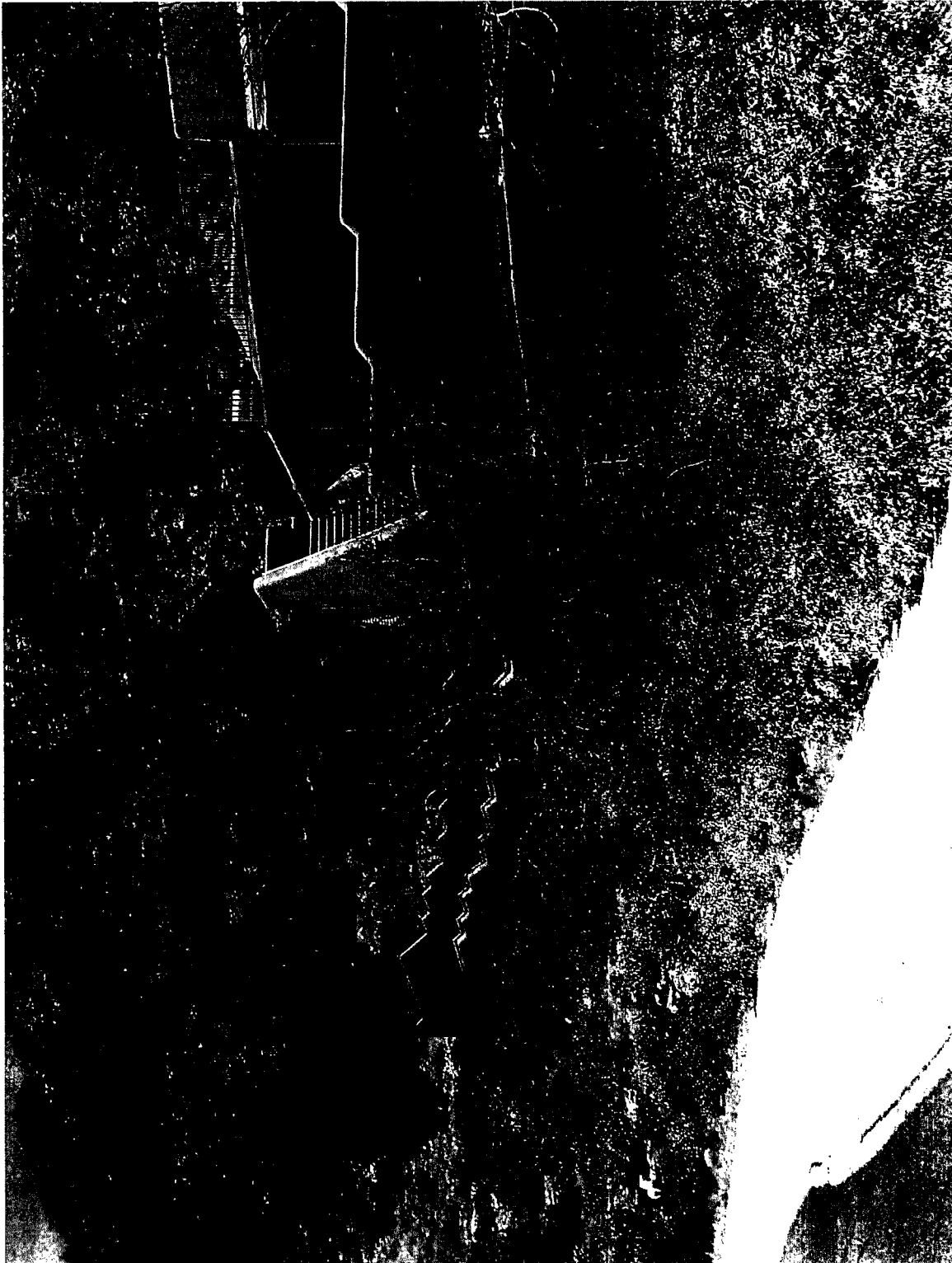


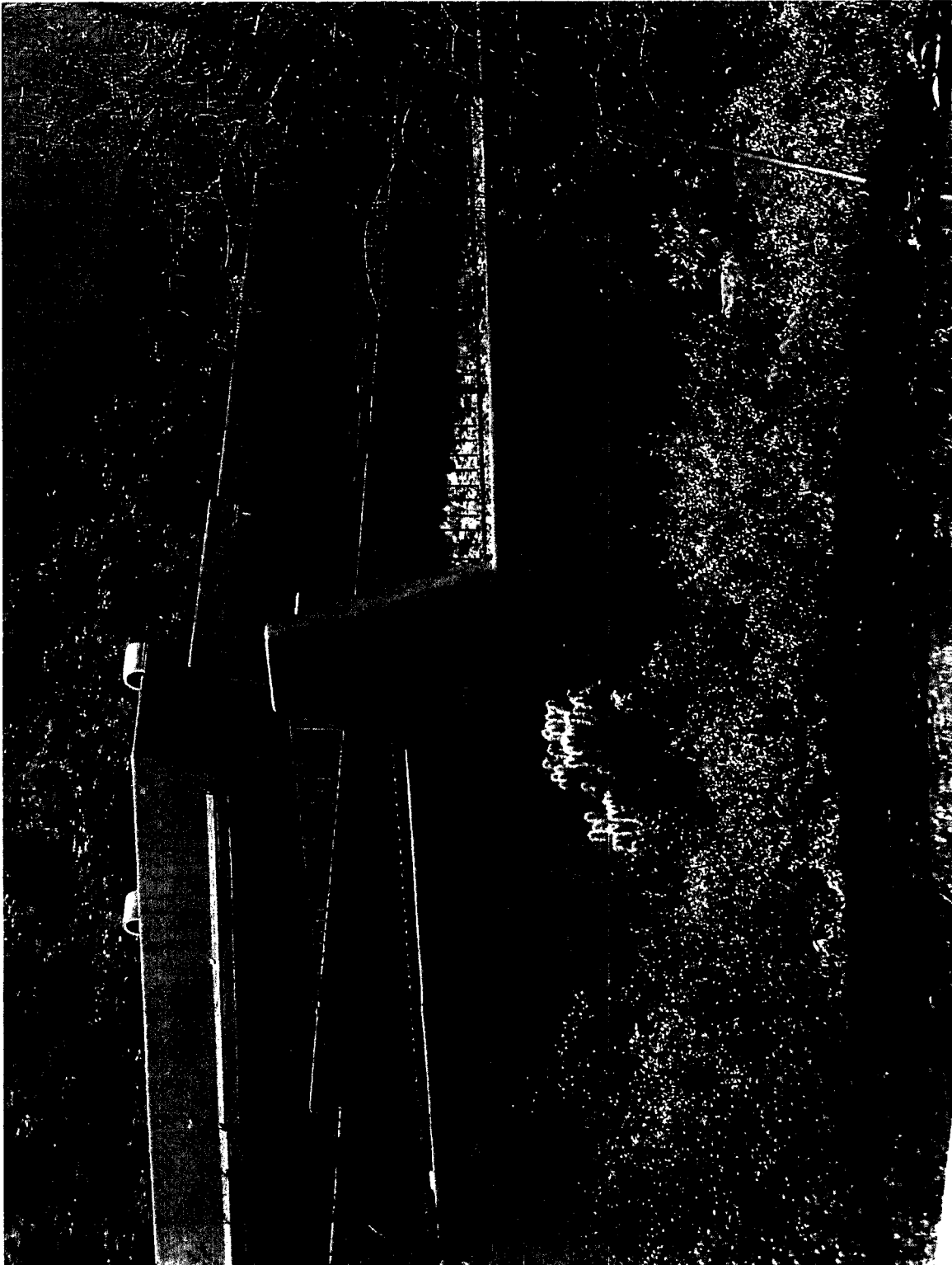




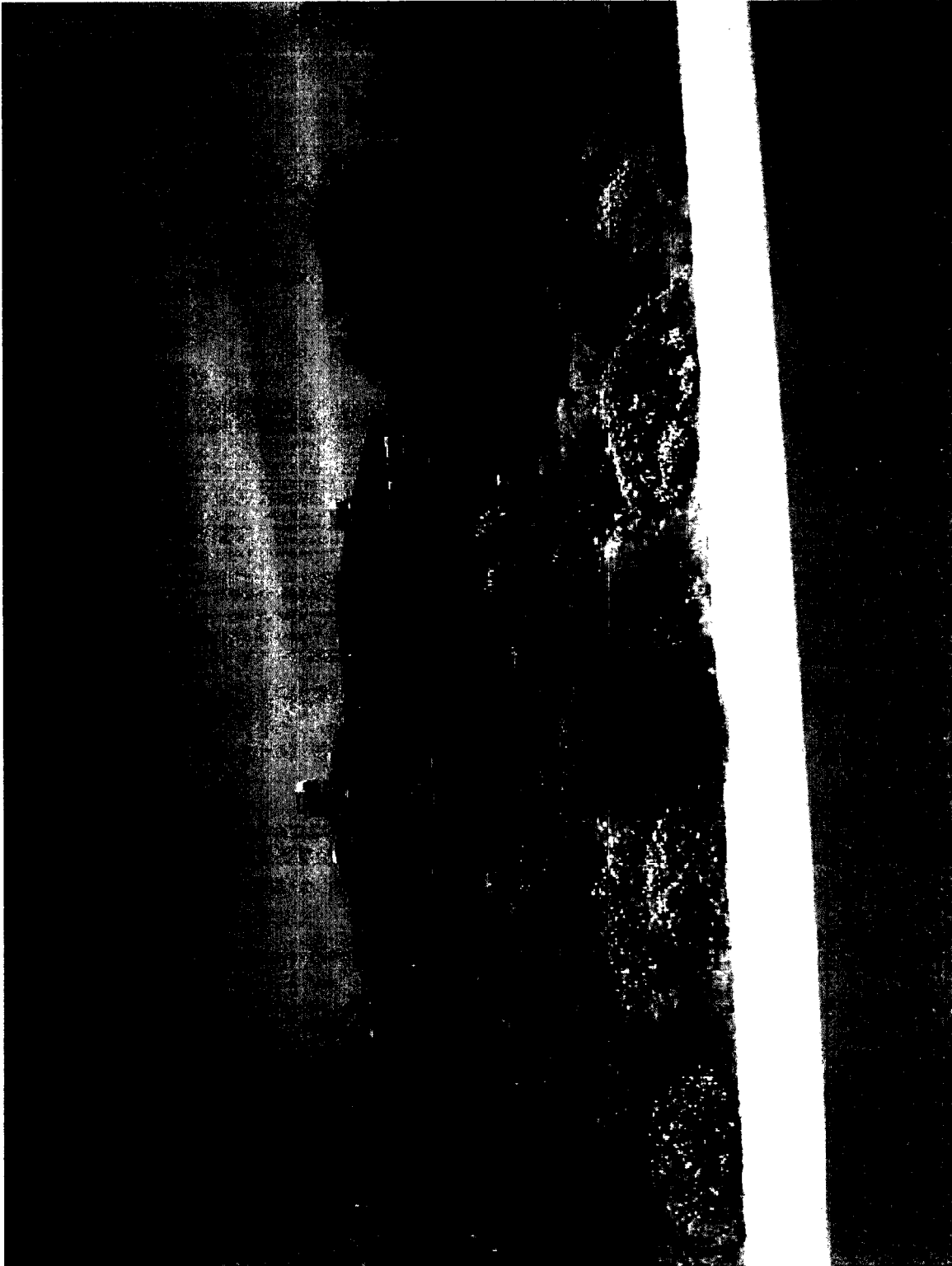








North 132 St.
N. of Sabino
Road



N. of Via Linda
Drive and W. of
132nd Street





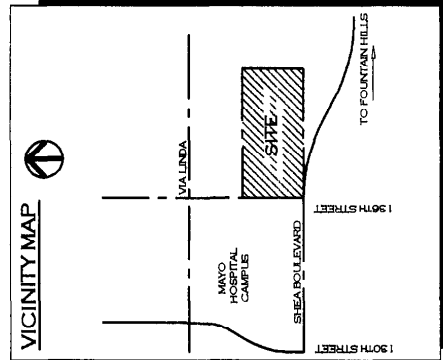


PROJECT LOCATION:
NEC OF SHEA BOULEVARD
& 136TH STREET

SITE ACREAGE (GROSS) 80.0 AC
NO. OF RESIDENTIAL UNITS 66
DENSITY 0.83 DU/AC
ZONING R1-43 ESL
OPEN SPACE: 27.32 AC
REQUIRED NACS 30.11 AC
PROVIDED NACS 30.11 AC
SETBACKS (PER AMENDED DEV. STDS):
MIN. LOT AREA 32,250 SQ. FT.
FRONT 15 FT
SIDE 15 FT
REAR 27 FT
PROJECT PHASING PHASE 1 OF 1

PROPERTY OWNER: BANK OF AMERICA NA TRUST
4720 BALBOA AVE
ENCINO, CA 91316

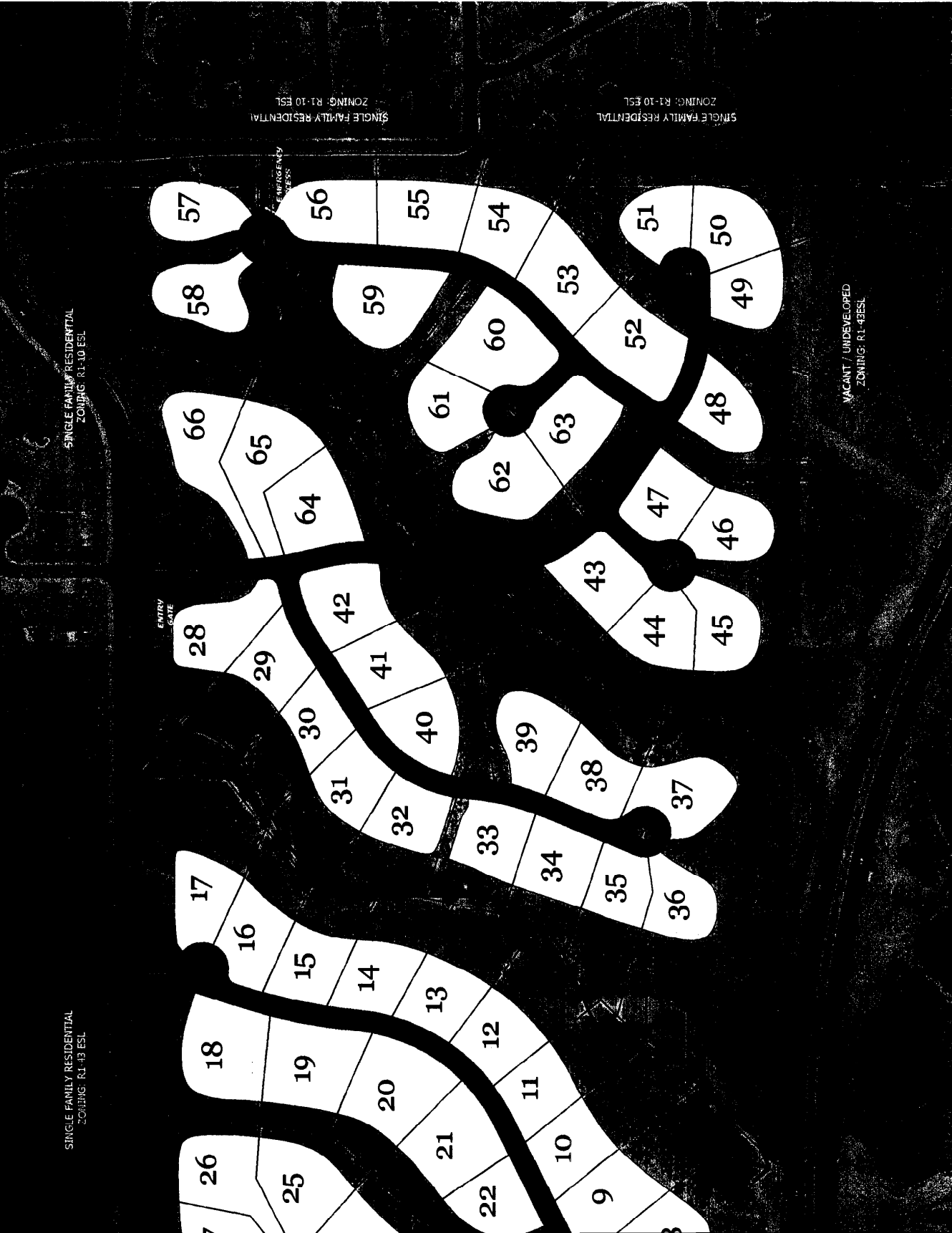
APPLICANT: LVA URBAN DESIGN STUDIO
7502 E. MAIN STREET
SCOTTSDALE, AZ 85251



DATE: 09.19.03
JOB NO.: 0079.1
DRAWN: AMS
REVIEWED:

SCALE: (4")

NORTH



FINDLAY PROPERTY
136TH STREET & SHEA BOULEVARD SCOTTSDALE, AZ